

DRAFT

5-9-07

Ordinance No. _____
0-07-37

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4 An ordinance of the City of Gainesville, Florida, amending
5 section 22-22 of Article II of Chapter 22, Code of Ordinances,
6 entitled Secondhand Dealers; increasing the number of days
7 for hold-orders; providing for directions to the codifier;
8 providing a severability clause; providing a repealing clause;
9 and providing an immediate effective date.
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11 WHEREAS, at least 10 days notice has been given once by publication in a newspaper of
12 general circulation notifying the public of this proposed ordinance and of a Public Hearing in the
13 City Commission Auditorium in City Hall, City of Gainesville; and

14 WHEREAS, a Public Hearing was held pursuant to the published notice described at
15 which hearing the parties in interest and all others had an opportunity to be and were, in fact,
16 heard;

17 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE
18 CITY OF GAINESVILLE, FLORIDA:

19 Section 1. Section 22-22, City of Gainesville Code of Ordinances, is amended to read as
20 follows:

21 **Sec. 22-22. Hold orders issued by police.**

22
23 If a police officer has reasonable grounds to believe that an item acquired by a permittee under
24 this article in the course of his/her business is the subject of a criminal investigation, the police
25 officer may place a hold-order upon the property for a period of 90 ~~60~~-days and upon release of
26 the property, may require the permittee to keep a record of the disposition of the property. It shall
27 be unlawful for any person to dispose of any property contrary to any hold order issued by a
28 police officer.

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1 **Section 2.** It is the intention of the City Commission that Section 1 of this ordinance shall
2 become and be made a part of the Gainesville Code of Ordinance, of the City of Gainesville,
3 Florida, and that the Section and Paragraphs of this ordinance may be renumbered or re-lettered in
4 order to accomplish such intentions.

5 **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
6 or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect
7 the validity of the remaining portions of this ordinance.

8 **Section 4.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
9 such conflict hereby repealed.

10 **Section 5.** This ordinance shall become effective immediately upon adoption.

11 **PASSED AND ADOPTED** this _____ day of _____, 2007.

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PEGEEN HANRAHAN
MAYOR

ATTEST:

Approved as to form and legality

CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

22 This ordinance passed on first reading this _____ day of _____, 2007.

23 This ordinance passed on second reading this _____ day of _____, 2007.

Select Year: 2006

The 2006 Florida Statutes

Title XXXIII	Chapter 538	View Entire Chapter
REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS	SECONDHAND DEALERS AND SECONDARY METALS RECYCLERS	

538.06 Holding period.--

(1) A secondhand dealer shall not sell, barter, exchange, alter, adulterate, use, or in any way dispose of any secondhand goods within 15 calendar days of the date of acquisition of the goods. Such holding periods are not applicable when the person known by the secondhand dealer to be the person from whom the goods were acquired desires to redeem, repurchase, or recover the goods, provided the dealer can produce the record of the original transaction with verification that the customer is the person from whom the goods were originally acquired.

(2) A secondhand dealer must maintain actual physical possession of all secondhand goods throughout a transaction. It is unlawful for a secondhand dealer to accept title or any other form of security in secondhand goods in lieu of actual physical possession. A secondhand dealer who accepts title or any other form of security in secondhand goods in lieu of actual physical possession commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(3) Upon probable cause that goods held by a secondhand dealer are stolen, a law enforcement officer with jurisdiction may place a 90-day written hold order on the goods. However, the hold may be extended beyond 90 days by a court of competent jurisdiction upon a finding of probable cause that the property is stolen and further holding is necessary for the purposes of trial or to safeguard such property. The dealer shall assume all responsibility, civil or criminal, relative to the property or evidence in question, including responsibility for the actions of any employee with respect thereto.

(4) While a hold order is in effect, the secondhand dealer must, upon request, release the property subject to the hold order to the custody of a law enforcement officer with jurisdiction for use in a criminal investigation. The release of the property to the custody of the law enforcement officer is not considered a waiver or release of the secondhand dealer's rights or interest in the property. Upon completion of the criminal proceeding, the property must be returned to the secondhand dealer unless the court orders other disposition. When such other disposition is ordered, the court shall additionally order the person from whom the secondhand dealer acquired the property to pay restitution to the secondhand dealer in the amount that the secondhand dealer paid for the property together with reasonable attorney's fees and costs.

(5) All dealers in secondhand property regulated by this chapter shall maintain transaction records for 3 years.

History.--s. 2, ch. 89-533; s. 1, ch. 90-192; s. 4, ch. 90-318; s. 4, ch. 91-429; s. 3, ch. 93-97; s. 2, ch. 95-287; s. 21, ch. 2000-138; s. 4, ch. 2006-201.

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